



July 7, 1999

Ms. Candelaria Garza
Data Processing Supervisor
Edinburg Police Department
100 E. Freddy Gonzalez
Edinburg, Texas 78539

OR99-1893

Dear Ms. Garza:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127322.

The Edinburg Police Department received a request for arrest records on two named individuals. You contend that providing this information would, in effect, be providing the criminal history of the named individuals. You assert that such information is excepted from disclosure pursuant to the common-law privacy provision of section 552.101 of the Government Code. Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses the doctrines of common-law and constitutional privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

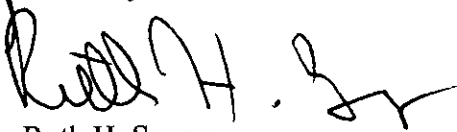
We agree that the compilation of all offense reports of a named individual constitutes a criminal history record of that individual. Criminal history information may be withheld from required public disclosure under common-law privacy if it meets the criteria articulated for section 552.101 by the Texas Supreme Court in *Industrial Foundation*.

In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the United States Supreme Court concluded that where an individual's

criminal history record information is compiled or summarized by a governmental entity, the information takes on a character that implicates an individual's right of privacy in a manner that the same individual records in an uncompiled state do not. Based on *Reporters Committee*, this office has concluded that a request for all law enforcement records of a specified individual implicates the individual's common-law privacy rights, and the responsive information is excepted from disclosure under section 552.101. We agree that you may not provide the requested information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 127322

Encl. Submitted documents

cc: Mr. George Aguilar
Aguilar Investigative Services, Inc.
P.O. Box 3647
McAllen, Texas 78502-3647
(w/o enclosures)